

76. (New) The method of claim 64, further comprising:
transmitting the first signal; and
conditionally transmitting the second signal when a rate control command is issued.
77. (New) The method of claim 76, further comprising transmitting the grant when a grant is issued.
78. (New) The method of claim 64, wherein the received packet is a subpacket.
79. (New) The method of claim 78, wherein the decoding is performed in response to previously received corresponding subpackets, if any.

REMARKS

Claims 1-23 and 40-79 are pending in the present application. Claims 60-63 have been amended. Previously cancelled claims 24-39 have been reintroduced as new claims 64-79.

In the Office Action mailed December 26, 2007, the Examiner rejected claims 1-23 and 40-63 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,904,286 by Dantu (hereinafter “Dantu”). In the previous office action dated 2/7/07 the Examiner rejected previously cancelled claims 24-39 (which are reintroduced as new claims 64-79) under 35 U.S.C. §102(e) as being anticipated by U.S. Publication No. 2002/0172217 by Kadaba et al. (hereinafter “Kadaba”). The examiner objected to claim 60-63 as lacking antecedent basis in the specification.

Applicants respectfully respond to this Office Action.

Applicants respectfully traverse the objection to the term “Computer readable media” as lacking antecedence in section [00189] of the specification. The Examiner specifically recommends striking the word “readable” and replacing it with “storage”. Note however, that paragraph [00189] reads “An exemplary storage medium is coupled to the processor such the processor can **read** information **from**, and write information to, the storage medium.” (emphasis added). It is true that one of ordinary skill in the art would readily understand “Computer readable media” without any instruction from the specification. However, even if one of skill in the art did not previously understand, he surely would understand having read the quoted text. Moreover, claims 60-63 in their unamended original form as filed contained the term “computer readable media”, and those terms are therefore part of the specification. They do not require any other antecedence for validity. For at least these reasons, the Examiner's objection should be withdrawn. Note that claims 60-63 have been amended to remove the word “to” for purely grammatical reasons.

35 U.S.C. §102

The Examiner rejected claims 1-23 and 40-63 under 35 U.S.C. §102(c) as being anticipated by Dantu. The standard for anticipation under §102 requires “the presence in a single prior art disclosure of all elements of a claimed invention arranged as in that claim.” *Carella v. Starlight Archery & Pro Line Co.*, 804 F.2d 135, 138, 231 U.S.P.Q.D (BNA) 644, 646 (Fed. Cir. 1998) (*quoting Panduit Corp. v. Dennison Mfg. Co.*, 774 F.2d 1082, 1101, 227 U.S.P.Q. (BNA) 337, 350 (Fed. Cir. 1985)) (*additional citations omitted*). As discussed further below, the Examiner has failed to identify each and every claim limitation, and has therefore failed to set forth a *prima facie* case for anticipation as required by §102.

With respect to claim 1, as cited by the Examiner, Dantu teaches rate control messages which include TCP packet acknowledgment feedback messages in a single message 110, always including rate control and acknowledgment. There is no second message taught that is generated conditioned on the rate control indicator, as recited in claim 1.

With respect to claim 2, note that claim 2 provides for a rate control command within the second message (which is not taught in Dantu, as detailed above) while the rate control indicator is in the first message. Therefore, in claim 2, the rate control indicator is clearly distinguishable from the rate control command. By contrast, Dantu speaks only of rate control messages, not of rate control commands (in a second message) conditioned on a rate control indicator (contained in the first message). Dantu is silent as to a rate control indicator, or any message generated conditioned thereon.

These same arguments apply to the rejections of the other independent and dependent claims. Support for these claims is found throughout the specification. For one clear example, see paragraph [00105], included below for convenience, in which the F-ACKCH comprises a first message comprising a rate control indicator and the F-RCCH channel which is generated conditioned on indication of whether or not rate control commands will be issued (an example rate control indicator):

[00105] In embodiments detailed herein, the F-ACKCH is used to provide positive or negative acknowledgment of a received subpacket, as well as an indication of whether or not rate control

commands will be issued (described below with respect to the F-RCCH channel).

See FIG. 8, and related text, for more detail of an example embodiment of conditional messages generated on the F-RCCH.

For these reasons, and others (omitted for brevity), a prima facie case for anticipation has not been made for claims 1-23 and 40-63, and the rejections should therefore be withdrawn.

Claims 24-39 were previously canceled and are now reintroduced as new claims 64-79.. Applicants respectfully traverse the Examiner's rebuttal (filed 11/21/2006) to Applicants' prior argument and continued rejection of the previously canceled claims 24-39 based on Kadaba. The Examiner asserts that the two channels taught "are two independent channels as disclosed in Kadaba". This assertion may be true but does not address the conditional generation of the second signal as recited in the claims. Applicants point out that, as recited in independent prior claim 24, now claim 64, and its dependents 65-69 (previously 25-39), the first signal indicates "whether a rate control command will be issued" and the second signal is generated "when a rate control command is issued." As the Examiner asserts, the Kadaba channels are two independent channels. Therefore, Kadaba does not teach the first signal indicating whether a rate control command will be issued and a second signal generated when that indication is made. By contrast, in the pending claims, the first and second signals are clearly related, with the second signal being generated conditionally based on the whether the first signal indicates a rate command will be issued. Applicants note further the elements of claims 64-79 are also not taught in the Dantu reference either, as described above. Applicants respectfully request that the Examiner reconsider the argument previously presented (a clear summary is provided on page 24 of the response filed 11/12/2006, omitted here for brevity) and as clarified herein, and request that the new claims 64-79, which are identical other than their numbering to prior claims 24-39, be allowed.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application is earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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